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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 330 and 385

Docket No. RM99-5-000; Order No. 639-B

Regulations under the Outer Continental Shelf Lands Act
Governing the Movement of Natural Gas
On Facilities on the Outer Continental Shelf

(Issued March 8, 2004)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is removing certain regulations promulgated under the Outer Continental Shelf Lands Act following a judicial determination that the Commission lacked authority to issue the regulations.

EFFECTIVE DATE: The rule is effective [insert the date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suede G. Kelly.

Regulations under the Outer Continental Shelf Lands Act Docket No. RM99-5-000
Governing the Movement of Natural Gas
on Facilities on the Outer Continental Shelf

ORDER NO. 639-b

FINAL RULE

(Issued March 8, 2004)

INTRODUCTION

1. The Federal Energy Regulatory Commission (Commission) is removing certain regulations promulgated under the Outer Continental Shelf Lands Act (OCSLA)¹ following a judicial determination that the Commission lacked authority to issue the regulations.

BACKGROUND AND DISCUSSION

2. On April 10, 2000, the Commission issued a rule requiring all entities that move natural gas on or across the Outer Continental Shelf to report certain information

¹43 U.S.C. 1301-1356.

regarding their affiliations, rates, and conditions of service.² On January 11, 2002, the United States District Court for the District of Columbia determined that the Commission lacked authority under the OCSLA to promulgate such reporting requirements,³ a determination subsequently affirmed.⁴ In view of the courts' finding, the Commission is removing the reporting requirements set forth in Part 330 of Subchapter O of its regulations.

INFORMATION COLLECTION STATEMENT

3. There is no need for Office of Management and Budget (OMB) review⁵ under Section 3507(d) of the Paperwork Reduction Act of 1995,⁶ since this final rule eliminates information collection and recordkeeping requirements. The removal of the OCSLA

²Regulations Under the OCSLA Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf, Order No. 639, 65 FR 20354 (Apr. 17, 2000), FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,097 (2000); Order on Reh'g, Order No. 639-A, 65 FR 47294 (Aug. 2, 2000), FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,103 (2000), Order Denying Clarification, 93 FERC ¶ 61,274 (2000); Order Denying Clarification, 93 FERC ¶ 61,274 (2000); Order on Request for Confidential Treatment, 96 FERC ¶ 61,296 (2001); Order Clarifying Prior Order, 97 FERC ¶ 61,040 (2001).

³Chevron U.S.A., Inc. v. FERC, 193 F. Supp. 2d 54 (D.D.C. 2002).

⁴Williams Companies. v. FERC, 345 F.3d 910 (D.C. Cir. 2003).

⁵5 CFR 1320.11.

⁶44 U.S.C. 3507(d).

reporting requirements reduces the Commission's FERC-545 data collection burden by 1,760 hours and eliminates the \$88,000 annual cost.

ENVIRONMENTAL ANALYSIS

4. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.⁷ However, the Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.⁸ The removal of regulations here qualifies for such an exclusion.⁹ Therefore, no environmental analysis is necessary, and none has been done.

REGULATORY FLEXIBILITY ACT CERTIFICATION

5. The Regulatory Flexibility Act of 1980 (RFA)¹⁰ generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.¹¹ The Commission found that promulgation of the

⁷Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

⁸18 CFR 380.4(a)(2)(ii).

⁹18 CFR 380.4.

¹⁰5 U.S.C. 601-612.

¹¹5 U.S.C. 605(b).

regulations at issue would not have a significant economic impact on small entities and certifies that the removal of these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

DOCUMENT AVAILABILITY

6. In addition to publishing the full text of this document in the Federal Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page

(<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington D.C. 20426.

7. From FERC's website on the Internet, this information is available in the eLibrary (formerly FERRIS). The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

8. User assistance is available for eLibrary and other aspects of FERC's website during normal business hours. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

EFFECTIVE DATE

9. The removal of the OCSLA reporting regulations is effective immediately, pursuant to 5 U.S.C. 533(b). The Commission is issuing this as a final rule without a period for public comment, because under 5 U.S.C. 533(b), notice and comment procedures are unnecessary where a rulemaking concerns only agency procedure and practice or where the agency finds notice and comment unnecessary. The provisions of 5 U.S.C. 801 regarding Congressional review of final rules do not apply to this final rule, because this rule concerns agency procedure and practice and will not substantially affect the rights of non-agency parties.¹²

List of Subjects18 CFR Part 330

Reporting and record keeping requirements.

18 CFR Part 385

Administrative practice and procedure, electric utilities, Penalties, Pipelines,
Reporting and record keeping requirements.

By the Commission

(S E A L)

Linda Mitry,
Acting Secretary.

¹²See 5 U.S.C. 804(3)(B) (2002).

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In consideration of the foregoing, the Commission amends 18 CFR Chapter I as follows:

**SUBCHAPTER O -- REGULATIONS UNDER THE OUTER CONTINENTAL
SHELF LANDS ACT (OCSLA) [Removed]**

1. Subchapter O, consisting of Part 330, is removed.

PART 385 -- RULES OF PRACTICE AND PROCEDURE

2. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551-557; 15 U.S.C. 717-717z, 3301-3432; 16 U.S.C. 791a-8225r, 2601-2645; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101-7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85 (1988).

3. In § 385.2011, paragraph (b)(6) is removed.